



General Assembly

January Session, 2001

Amendment

LCO No. 5978

Offered by:

SEN. COLEMAN, 2nd Dist.

To: Subst. Senate Bill No. 1115

File No. 267

Cal. No. 221

"AN ACT CONCERNING INVESTIGATIVE SUBPOENAS."

1 After line 247, add the following:

2 "Sec. 15. Section 54-1c of the general statutes is repealed and the
3 following is substituted in lieu thereof:

4 (a) Any admission, confession or statement, written or oral,
5 obtained from an accused person who has not been presented to the
6 first session of the court, or on the day specified for arraignment under
7 the provisions of section 54-1g, or who has not been informed of [his]
8 such person's rights as provided by section 54-1b or section 54-64b,
9 shall be inadmissible.

10 (b) Any interrogation of, and any oral admission, confession or
11 statement obtained from, a person accused of a capital felony or class
12 A or B felony during custodial interrogation at a police station,
13 courthouse, correctional facility, community correctional center or
14 detention facility shall, when feasible, be electronically recorded in its
15 entirety by use of an electronic audio or audiovisual device which may

16 include microcassette recording, motion picture, videotape or other
17 audio or visual recording technology.

18 (c) Whenever an interrogation of, and an oral admission, confession
19 or statement obtained from, a person accused of a capital felony or
20 class A or B felony during custodial interrogation at a police station,
21 courthouse, correctional facility, community correctional center or
22 detention facility has not been electronically recorded as provided in
23 subsection (b) of this section, the court shall instruct the jury that it
24 may consider this fact in determining the reliability of the oral
25 admission, confession or statement and the weight to be given to it.

26 Sec. 16. (NEW) (a) No admission, confession or statement, written or
27 oral, made by a person who has attained the age of sixteen years but
28 has not attained the age of eighteen years during a custodial
29 interrogation of such person by a law enforcement officer concerning
30 the commission of a class A or B felony shall be admissible in evidence
31 against such person in a criminal proceeding unless such admission,
32 confession or statement was made by such person in the presence of
33 such person's parent or guardian and after such person and such
34 parent or guardian have been advised (1) that such person has the
35 right to refuse to make any statements, (2) that any statements such
36 person makes may be introduced into evidence against such person,
37 and (3) that such person has the right to have counsel present and, if
38 such person is indigent, to have counsel appointed to represent such
39 person.

40 (b) Notwithstanding the provisions of subsection (a) of this section,
41 a law enforcement officer may interrogate such person if (1) the officer
42 has made reasonable efforts to contact such person's parent or
43 guardian, (2) the officer has been unable to contact such parent or
44 guardian, and (3) the officer seeks to question such person concerning
45 the commission of a class A or B felony, evidence of which will not be
46 available at a later time if prompt action is not taken by law
47 enforcement officers.

48 Sec. 17. (NEW) Any town, city or borough may establish by
49 ordinance a civilian police review board in accordance with the
50 provisions of sections 18 to 26, inclusive, of this act.

51 Sec. 18. (NEW) As used in sections 18 to 26, inclusive, of this act:

52 (1) "Board" means the civilian police review board;

53 (2) "Misconduct" means excessive force, harassment, abusive language
54 or neglect of duty; and

55 (3) "Police officer" means a member of any municipal police
56 department.

57 Sec. 19. (NEW) A civilian police review board shall be composed of
58 nine members appointed as follows: The chief executive officer of the
59 municipality shall appoint four members and the legislative body of the
60 municipality shall appoint five members. Members shall be residents of
61 the municipality and reflect the racial and ethnic diversity of the
62 municipality. A member shall not be an employee of the municipality,
63 an elected or appointed official of the state or a municipality, or an
64 employee of a law enforcement agency. Of the members first
65 appointed, four members shall serve for a term of one year, and five
66 members shall serve for a term of two years. Thereafter, the members
67 of the board so appointed shall serve for terms of two years. Any
68 vacancy in the membership of the board shall be filled by the
69 appointing authority for the unexpired portion of the term. The
70 members shall select a chairperson from among the membership.

71 Sec. 20. (NEW) The board shall have the following powers and duties:

72 (1) To receive and investigate complaints of police misconduct as
73 provided in sections 18 to 26, inclusive, of this act;

74 (2) To hold hearings, subpoena witnesses and compel their
75 attendance, administer oaths, take the testimony of any person under
76 oath and require the production for examination of any books and
77 papers relating to any matter under investigation;

78 (3) To require written answers to interrogatories under oath relating
79 to any complaint under investigation pursuant to sections 18 to 26,
80 inclusive, of this act alleging police misconduct; and

81 (4) Establish rules of procedure to govern, expedite and effectuate
82 the investigation, hearing and resolution of complaints of alleged
83 police misconduct.

84 Sec. 21. (NEW) (a) Any person may file a complaint alleging
85 misconduct by a police officer with the civilian police review board
86 established by sections 18 to 26, inclusive, of this act. The complaint shall
87 be in such form and shall contain such information as the board may
88 require.

89 (b) Within ten days of the filing of a complaint, the chairperson of the
90 board shall cause a copy of the complaint to be served upon the police
91 officer who is the subject of the complaint. The police officer may file a
92 written answer to the complaint under oath, together with any
93 documents or supporting evidence, with the board within fifteen days of
94 receipt of the complaint.

95 Sec. 22. (NEW) (a) The chairperson of the board shall refer the
96 complaint together with the police officer's answer, if any, to a panel of
97 three members of the board for purposes of conducting a preliminary
98 review. The panel shall review the complaint and the officer's answer to
99 determine if there is reasonable cause to believe that misconduct by a
100 police officer has occurred. As used in this section, "reasonable cause"
101 means a bona fide belief that the material issues of fact are such that a
102 person of ordinary caution, prudence and judgment could believe the
103 facts alleged in the complaint.

104 (b) Before issuing a finding of reasonable cause or no reasonable
105 cause, the panel shall afford each party and such party's representative
106 an opportunity to provide written or oral comments on all evidence in
107 the panel's file, except as otherwise provided by federal law or any other
108 provision of the general statutes. The panel shall consider such
109 comments in making its determination. Each party and such party's

110 representative shall have the right to inspect and copy documents,
111 statements of witnesses and other evidence pertaining to the complaint,
112 except as otherwise provided by federal law or any other provision of
113 the general statutes.

114 (c) The panel shall make a finding of reasonable cause or no
115 reasonable cause in writing and shall list the factual findings on which it
116 is based not later than sixty days from the date of filing of the complaint,
117 except that for good cause shown, the board may grant a single
118 extension of the review of thirty days.

119 (d) In the review of any complaint filed pursuant to section 21 of this
120 act, the panel may issue subpoenas requiring the production of records
121 and other documents relating to the complaint under review.

122 Sec. 23. (NEW) (a) If less than a majority of the members of the panel
123 make a finding of reasonable cause, the complaint shall be dismissed.

124 (b) If a majority of the members of the panel make a finding of
125 reasonable cause, the panel shall certify the complaint and the results of
126 its review to the chairperson of the board.

127 (c) Upon receipt of a certification of the complaint in accordance with
128 subsection (b) of this section, the chairperson shall forthwith appoint a
129 panel of three members of the board to conduct an evidentiary hearing
130 concerning the complaint, and shall designate one of the members to
131 serve as chairperson of the panel. The hearing shall be held not later than
132 sixty days after the appointment of the panel. No member of the board
133 who served on the preliminary review panel with respect to a complaint
134 shall serve on the hearing panel with respect to the same complaint.

135 (d) The chairperson of the panel shall notify by registered or certified
136 mail the police officer who is the subject of the complaint of the
137 appointment of the panel and of the date, time and place of the hearing
138 on such complaint.

139 (e) The police officer may file a written answer to the complaint under

140 oath and appear at the hearing, with or without counsel, and submit
141 testimony and be fully heard.

142 (f) The panel shall not later than thirty days after the close of such
143 hearing publish its findings together with a memorandum of its reasons
144 therefor.

145 Sec. 24. (NEW) (a) If, upon all the evidence presented at the hearing
146 conducted pursuant to section 23 of this act, a majority of the members of
147 the panel finds that a police officer has engaged in misconduct, the panel
148 shall state its findings of fact and may recommend that such officer be
149 dismissed, suspended or demoted or that other disciplinary action be
150 taken against such officer.

151 (b) If, upon all the evidence presented at the hearing conducted
152 pursuant to section 23 of this act, a majority of the members of the panel
153 finds that a police officer has not engaged in misconduct, the panel shall
154 state its findings of fact and shall dismiss the complaint.

155 (c) If, upon all the evidence presented at the hearing conducted
156 pursuant to section 23 of this act, a majority of the members of the panel
157 finds probable cause to believe that the police officer has violated the
158 criminal law of this state or of the federal government, it shall report its
159 findings to the Chief State's Attorney or the United States Attorney, as
160 the case may be.

161 Sec. 25. (NEW) In case of contumacy or refusal to obey a subpoena
162 issued to any person, the Superior Court, upon application by the
163 board, shall have jurisdiction to order such person to appear before
164 said board or a panel of the board to produce evidence or to give
165 testimony relating to the complaint under investigation, and any
166 failure to obey such order may be punished by said court as a
167 contempt thereof. No person shall be excused from attending and
168 testifying or from producing books, records, correspondence,
169 documents or other evidence in obedience to the subpoena of the
170 board, on the ground that the testimony or evidence required may
171 tend to incriminate or subject such person to a penalty or forfeiture;

172 but no individual shall be prosecuted or subjected to any penalty or
173 forfeiture for or on account of any transaction, matter or thing
174 concerning which such individual is compelled, after claiming a
175 privilege against self-incrimination, to testify or produce evidence,
176 except that such individual so testifying shall not be exempt from
177 prosecution and punishment for perjury committed in so testifying.

178 Sec. 26. (NEW) Notwithstanding the provisions of section 19 or 25 of
179 this act, a person shall be excused from providing answers to
180 interrogatories or from attending and testifying or producing books,
181 records, correspondence, documents or other evidence in obedience to
182 the subpoena of the board if such answers, attendance, testimony or
183 production would prejudice such person in any pending judicial,
184 legislative or administrative proceeding."

185 In line 248, strike "15" and insert "27" in lieu thereof and after "and"
186 insert "sections 1 to 14, inclusive,"